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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE SRI H .L. DATTU

WRIT PETITION NUMBER:38268/1997

BETWEEN:

Smt Sharadamma w/o N.Narasimhaiah,
60 years, No.5, 7th cross,
Yellamma Temple street,
Magadi road, Bangalore.

..PETITIONER

(BY SRI G.A.K. GOWDA - ADVOCATE)

AND:

1. Karnataka Electricity Board,
Statutory Board, having its
Office at Cauvery Bhavan,
Bangalore.
2. Superintending Engineer(Elec.)
and Appellate Authority,
Karnataka Electricity Board,
K.R.Circle, Bangalore.
3. Asst.Executive Engineer,(Elec.)
W3 Sub-Division, Karnataka
Electricity Board, Bangalore.

..RESPONDENTS

(BY SRI N.K. GUPTA - ADVOCATE)

This petition is filed by the petitioner with a prayer to quash vide Annexure C dated 8.10.1997 by R-2 etc.,

This petition coming on for Hearing this day, the court made the following:

ORDER

Rule. Heard the learned counsel for the parties to the lis.

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2. Petitioner is running a flour mill having power connection ^{through installation bearing No. 1367/P2/331.} ~~vide~~ RR No. W3P. She claims that she is regular in payment of the bills raised by the respondents for having consumed electrical energy.

3. Petitioner is constrained to approach this court in view of the orders made by the appellate authority in Appeal No. SEE/BC/Appeal-II/C 12977-13000 dated 8.10.1997. Respondents had raised a demand against the tenant of the premises where the respondents had installed the meter bearing the aforesaid RR number. The demand raised by the respondents authorities was the subject matter of the appeal before the appellate authority, but that appeal was filed by the tenant. The appellate authority notices that the owner of the premises in whose name the installation stands has not approached him, but however, decides the appeal on merits. Thereafter, the demand has been raised by the respondents by their demand notices dated 13.3.1997 and 11.4.1997. Immediately after the said demands were raised by the respondents, petitioner had deposited a sum of Rs.12,037/- with 3rd respondent. Inspite of such deposit, respondents authorities ^{have} ~~had~~ not restored the power supply to the petitioner's installation.

3. The installation stands in the name of

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the petitioner and if any person is aggrieved by the demand raised by the respondents^u is only the petitioner and nobody else. The appellate authority could not have decided the appeal preferred by the tenant of the premises against the demand raised by the respondents authorities. On that sole ground, the appellate authority could have rejected the appeal but without doing so, the appellate authority decided the appeal on merits. In my view, the orders made by the appellate authority is unsustainable. Accordingly, it is liable to be set aside.

4. For the reasons stated, petition is allowed. The order made by the appellate authority is quashed. The petitioner is permitted to file an appeal as provided under the Regulations of the Board against the demand raised by the respondents authorities dated 13.3.1997 and 11.3.1997 within two months from today. The appellate authority shall not insist upon deposit of 50% of the demand raised since the petitioner has already paid that amount vide Receipt No.05162 dated 26.3.1997. If such an appeal is filed by the petitioner within the time grnated by this court, the appellate authority shall decide the appeal on merits without reference to the period of limitation. Further a direction is issued to the Board to restore the power supply to the petitioner's installation vide

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RR No.W3P 1367/P2/331 within one week from today.

5. With these observations, petition is disposed off. Ordered accordingly.

Sd/-
JUDGE

CSG